

NEW APPLICATION

BEFORE THE ARIZONA CORPORATION COM



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SUSAN BITTER SMITH
Chairman
BOB STUMP
Commissioner
BOB BURNS
Commissioner
DOUG LITTLE
Commissioner
TOM FORESE
Commissioner

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Arizona Corporation Commission
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JAN 29 2015

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IN THE MATTER OF THE APPLICATION)	
OF GLOBAL TEL*LINK CORPORATION,)	DOCKET NOS.
VALUE-ADDED COMMUNICATIONS,)	T-02871A-15-0025
INC., DSI-ITI, LCC, AND PUBLIC)	T-03798A-15-0025
COMMUNICATIONS SERVICES, INC. FOR)	T-20734A-15-0025
RESCISSION OF ALL BOND)	T-03682A-15-0025
REQUIREMENTS, INCLUDING THOSE)	
CONTAINED IN ACC DECISION NOS.)	
69952, 72017, AND 72712.)	
)	

APPLICATION

Global Tel*Link Corporation, Value-Added Communications, Inc., DSI-ITI, LLC and Public Communications Services, Inc. (collectively the "Applicants") request rescission of the bond requirements contained in Arizona Corporation Commission ("Commission") Decision Nos. 69952, 72017, and 72712.

BACKGROUND

The Applicants are all authorized public service corporations in Arizona and in the course of obtaining certification, or subsequent merger or financing authorizations, each was asked to procure and deliver to the Commission Business office a bond or a letter of credit. The certified entities and their respective bond requirements are described below:

1. Global Tel*Link (“GTL”)

GTL holds a certificate to provide Customer-owned Pay Telephone (“COPT”) service in Arizona, which was issued on December 20, 1995 (Decision No. 59429). In 1995, at the time of certification, GTL was not ordered to submit a bond or a letter of credit. In 2007, GTL filed an application for authorization to encumber Arizona assets and, in conjunction with the approval of that application, the Commission directed GTL to procure a performance bond or an irrevocable sight draft letter of credit in the amount of \$10,000. GTL was further ordered to provide that bond or sight draft letter of credit to the Commission Business Office. *See* Decision No. 69952, para. 14. GTL complied with this order by submitting an original \$10,000 bond to the Commission Business Office. This \$10,000 bond has been renewed over the years as required by Decision No. 69952.

2. Value-Added Communications, Inc., (“VAC”)

VAC holds a certificate to provide alternative operation services (“AOS”) in the state of Arizona pursuant to Decision No. 66456 docketed on October 24, 2003. VAC also is certified to provide customer-owned pay telephone (“COPT”) pursuant to Decision No. 74403, docketed on March 19, 2014. Neither the AOS certificate, nor the COPT certificate required VAC to procure a bond or a sight draft letter of credit. In 2011, VAC, together with GTL, DSI, and PCS applied for a limited waiver of the Affiliated Interest Rules (A.A.C. R14-2-801 to R14-2-806) in connection with a transfer of control of all assets held by GTL Holding, LLC to ASP GTL. The Commission approved the transfer of control, but required “either a statement that all Arizona customer deposits and prepayments are excluded from encumbrance or copies of a performance bond or irrevocable sight draft letter of credit in the amount of \$125,000 for VAC.” Decision 72712, p. 8, para. 25(A). VAC complied with Decision 72712 by procuring a performance bond,

which was subsequently replaced by a letter of credit and most recently replaced by an original bond, which was submitted to the Business Office in October 2014.

3. DSI-ITI, LLC (“DSI”)

DSI holds a certificate to provide customer owned pay telephone service (“COPT”) in Arizona by virtue of Decision No. 72017, docketed on December 10, 2010. When DSI was certified in 2010, the Commission required DSI to procure and provide to the Commission a performance bond or irrevocable sight draft letter of credit in the amount of \$10,000. *See* Decision 72017, p. 6. DSI complied with this required and the Commission Business Office currently holds an original \$10,000 letter of credit and an original bond for \$10,000 replacing that letter of credit, all in compliance with Decision 72017.

4. Public Communications Services, Inc. (“PCS”)

PCS holds a certificate to provide customer owned pay telephone service (“COPT”) in Arizona by virtue of Decision No. 61576, docketed on March 15, 1999. When PCS was certified in 1999, the Commission did not require a bond or a letter of credit. In 2011, PCS, together with GTL, DSI, and VAC applied for a limited waiver of the Affiliated Interest Rules (A.A.C. R14-2-801 to R14-2-806) in connection with a transfer of control of all assets held by GTL Holding, LLC to ASP GTL. The Commission approved the transfer of control, but required “either a statement that all Arizona customer deposits and prepayments are excluded from encumbrance or copies of a performance bond or irrevocable sight draft letter of credit in the amount of \$75,000 for VAC.” Decision 72712, p. 8, para. 25(A). PCS complied with Decision 72712 by procuring a performance bond which was subsequently replaced by a letter of credit and most recently replaced by an original bond, which is currently held by the Commission Business Office.

GTL, DSI, PCS, and VAC have complied with their respective Commission certification orders since becoming certified. The Commissioner has never drawn on the bonds (or letters of

credit) provided by GTL, DSI, PCS, and VAC, and no customer complaint has brought into question the Applicants' reliability or conduct as carriers. The bonds are not needed to ensure the Applicants' individual and collective compliance with Commission orders. GTL, DSI, PCS, and VAC respectfully request that the Commission issue an order relieving Applicants of all bond or letter of credit obligations and return all original bond or letter of credit documents to the following representative of the Applicants:

Teresa Ridgeway
Senior Vice President - Administration
Global Tel*Link
107 St Francis Street
Suite 3200
Mobile, AL 36602

ANALYSIS

"In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust." A.A.C. R14-2-1105(D). Applicants are subject to the Arizona Competitive Telecommunications Services Rules, A.A.C. R14-2-1101-1115, and must comply with all rules applicable to the provision of intrastate telecommunications services under the terms of their respective certifications. Decision Nos. 59429 (GTL), 61576 (PCS), 66456 (VAC- AOS), 72017 (DSI), 74403 (VAC- COPT). While the Commission may require a performance bond prior to certification, for the reasons set forth below continuing this requirement for the Applicants, established carriers with a history of compliance is unnecessary and costly.

1. Compliance

Applicants have all been certified in Arizona for more than a decade. Through-out this period Applicants have complied with the requirements of certification, including filing annual reports, paying annual assessments for funding the ACC, RUCO (A.R.S. §40-401; §40-401.01) and Arizona universal service. Any complaints against the Applicants have been resolved and closed with no formal litigation and without penalty. Applicants are available to respond in a timely and responsive manner to any questions or concerns regarding customer service.

The bonds (and previously the letters of credit) Applicants have on file with the Commission have never been drawn upon or requested. Obtaining and maintaining these bonds and letters of credit created significant expense for Applicants and will continue to do so. Moreover, purchasing the bond diverts monies that Applicants could use to improve its systems and services.

2. The Bond Requirement Is Not Necessary or Reasonable.

The Commission “*may* require . . . the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers.” A.A.C. R14-2-1105(D) (emphasis added). This rule was invoked by the Commission, as early as 2000, to protect consumers in the event a telecommunications carrier declared bankruptcy or abandoned service. *See, e.g.,* Decision No. 62751 (2000) (*Eschelon Telecom of Arizona CC&N Application*). At that time, many providers were new to Arizona and few carriers had invested in equipment and facilities. The new competitive local exchange carriers (“CLECs”) did not have demonstrable operating histories, nor could they offer track records of customer satisfaction. During this period, a bond requirement was the vehicle selected by Commission Staff to protect consumers in the event a provider could not meet its legal obligations. Bonds were one way for the Commission to protect consumers from companies

with little or no assets or few ties to Arizona. Now, fifteen years later, the market is very different. Customer deposits and advances are no more at risk with an established carriers like Applicants, than they are with Qwest Corporation or Cox, which carry no performance bonds benefiting the Commission. Applicants have established through their operating history and compliance that customer deposits are not at risk. Therefore, bond or letter of credit requirements are not necessary or reasonable for the Applicants.

3. The Commission is Moving Towards Requiring Bond Only If Necessary

The Commission has issued orders in may proceedings eliminating bond requirements for competitive carrier requirements. *See e.g.* Broadvox-CLEC (Decision No. 74410), Gila Local Exchange Carrier, Inc. (Docket No. T-03943A-14-0013), tw telecom of arizona llc, and XO Communications Services, LLC (Docket No. T-04302A-14-0115); CenturyLink Communications Company, LLC (T-02811B-14-0211). Likewise, the Commission has approved a carrier certification request without requiring a bond of the applicant. *See* TNCI Operating Company, LLC T-20882A-13-0108. In recommending approval of the TNCI certification application, Staff recommended no bond reflecting an appropriate reaction to changes in the competitive telecom market. Staff has recommended a “case by case” analysis for assessing the need for a bond. This makes sense. The Commission retains full authority to impose a bond if Staff is concerned about a company’s managerial or technical ability to provide service in Arizona. Companies like MCC Telephony, however, that have been providing service for years, show no history of unresolved customer complaints or problems, and have demonstrated their technical and managerial expertise to provide service, should not be required to post a bond.

4. Bond Surety Requirements

Each Applicant has inquired with its bond issuer, and the following sample language – together with the return of the bond to the company representative identified above – will be

sufficient for purposes of relieving the Applicants of each bond and/or letter of credit requirement.

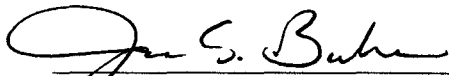
IS FURTHER ORDERED that Global Tel*Link may cancel, rescind, discontinue and be released from any performance bond, irrevocable sight draft letter of credit or other instrument obtained in compliance with the \$10,000 performance bond or irrevocable sight draft letter of credit requirement set by Decision No. 69952.

CONCLUSION

For the foregoing reasons, Applicants respectfully request an order cancelling the bond and/or letter of credit requirements imposed by Decision Nos. 69952 (GTL), 72712 (PCS and VAC) and 72017 (DSI).

RESPECTFULLY SUBMITTED this 30th day of January 2015

By:



Joan S. Burke, 013687

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Public Communications Services, Inc.

ORIGINAL and thirteen (13) copies of the foregoing
filed this 30th day of January 2015 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

